

258 CMR 20.00: STANDARDS OF PROFESSIONAL PRACTICE AND CONDUCT

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20.01: Unethical or Unprofessional Conduct Generally

A social worker shall not engage in unethical or unprofessional conduct. "Unethical or unprofessional conduct" includes, but is not limited to, the following:

- (1) Violating any provision of M.G.L. c. 112, §§ 130 through 137, or any regulation of the Board promulgated thereunder;
- (2) Engaging in, authorizing or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with any application for the issuance or renewal of a social work license;
- (3) Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in the course of his or her professional practice;
- (4) Using, or attempting to use, a license which has been revoked or suspended, which has expired, or which belongs to another person;
- (5) Authorizing or permitting a person to perform functions or services which constitute the practice of social work, as defined in M.G.L. c. 112, § 130, when one knows or has reason to know that said person is not licensed by the Board and that a license is required for the performance of those functions or services;
- (6) Authorizing or permitting a licensed social worker to perform a particular social work function or service, when one knows or has reason to know that the performance of that function

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or service exceeds the legally permissible scope of practice for that level of licensure, or when one knows or has reason to know that the individual in question does not possess the knowledge or skills necessary for proper performance of that function or service;

(7) Offering, giving, soliciting, receiving or agreeing to receive any fee or other consideration to or from a social worker or other health care professional for the referral of a client;

(8) Engaging in any other conduct which violates federal or state law and which reasonably calls into question his or her fitness to practice social work;

(9) Engaging in any conduct which violates the civil or legal rights of a client; or

(10) Engaging in any course of conduct which is expressly prohibited by, or which constitutes a failure to conform to:

(a) any provisions of the Code of Ethics of the National Association of Social Workers, as adopted by the 1979 NASW Delegate Assembly and amended from time to time hereafter, to the extent that said provision is not inconsistent with federal or state law; or

(b) any other generally accepted standard(s) of professional conduct.

20.02: Performance of Services without Informed Consent

(1) A social worker shall not perform or attempt to perform any social work service or function without the informed consent of the client or prospective client who is to receive that service or, in the case of a service recipient who lacks the legal capacity to give valid consent, the informed consent of an individual who is legally authorized to give consent on behalf of that client or prospective client.

(2) Where the client or prospective client who is to receive the social work service is not mentally competent to give legally valid consent to the performance or provision of that service, the social worker shall not perform or attempt to perform that service without the prior written consent of a guardian appointed by a court of competent jurisdiction to act on behalf of that client or prospective client.

(3) Where the client or prospective client who is to receive the social work service is a minor, the informed consent of at least one of that minor's parents or the minor's legal guardian is required before the social work service is performed or provided, unless:

(a) The minor is married, widowed or divorced;

(b) The minor is the parent of a child himself or herself;

(c) The minor is a member of any of the armed forces of the United States;

(d) The minor is living separate and apart from his or her parent(s) or legal guardian and is managing his or her own financial affairs;

(e) The minor reasonably believes that he or she is suffering from, or has come into contact with, a disease defined as dangerous to the public health pursuant to M.G.L. c. 111, § 6, and the service(s) to be performed pertain to the diagnosis or treatment of that disease; or

(f) The best interests of the minor will be served by not notifying his or her parent(s) or

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legal guardian of the performance of the proposed service(s), and the social worker reasonably believes that the minor fully understands the nature of the proposed service(s) and the risks and benefits of those service(s).

20.03: Performance of Services Not Authorized by Law

A social worker shall not perform, or offer to perform, any function or service which he or she is not authorized by law to perform. Such functions or services include, but are not necessarily limited to, the following:

- (1) Prescribing, furnishing, or administering any pharmacological agent to a client in the course of his or her professional practice, whether or not the pharmacological agent in question is a controlled substance under federal or state law;
- (2) Diagnosing or attempting to diagnose any organic illness or disorder through the use of medical tests, examinations or procedures, rather than through accepted social work methods;
- (3) Prescribing or administering any form of organic or medical therapy or treatment; or
- (4) Otherwise performing or providing any function or service which exceeds the legally permissible scope of practice for his or her level of licensure, as defined in 258 CMR 12.01 through 12.05.

20.04: Negligent or Incompetent Practice

A social worker shall not perform any professional function or service in a negligent or incompetent manner. A function or service is performed in a negligent or incompetent manner if:

- (1) The social worker, in performing that function or service, failed to exercise that degree of care and skill which is ordinarily exercised by a reasonably prudent social worker in like circumstances; or
- (2) The social worker performed the function or service in spite of the fact that he or she knew, or had reason to know, that performance of that function or service was beyond the scope of his or her skills, training or expertise.

20.05: Practicing While Impaired

A social worker shall not perform, or offer to perform, any professional function or service at any time while he or she is impaired as a result of intoxication due to the use of alcohol or drugs, or as a result of incapacitation due to illness.

20.06: Sexual Misconduct

A social worker shall not engage in, solicit, or otherwise attempt to engage in any form of sexual relationship or activity with a client, or with any prospective client, or with any former

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client to whom the social worker has provided professional services or a professional consultation. It shall be a violation of this section for any social worker to induce, or attempt to induce, any present, prospective or former client to engage in any form of sexual relationship, activity or contact with that social worker by falsely representing that the sexual relationship, activity or contact will or may be of diagnostic or therapeutic benefit to that present, prospective or former client.

20.07: Other Improper Relationships with Clients or Third Parties

A social worker shall not engage in, or attempt to engage in, any social relationship with a client or prospective client, or with any third person whom that client or prospective client knows, if a reasonably prudent social worker, in light of all of the relevant facts and circumstances, would conclude that that relationship is likely to result in exploitation of, or identifiable physical or emotional harm to, that present or prospective client.

20.08: Unlawful Discrimination

A social worker shall not engage in, facilitate, or collaborate in any form of discrimination on the basis of race, color, religious creed, national origin, sex, sexual orientation, age, ancestry, marital status, status as a veteran or member of the armed forces, blindness, hearing impairment or any physical or mental disability with respect to the availability, provision, or performance of any professional function or service.

20.09: Violations of Client Confidentiality Rights

(1) A social worker shall not, at any time, disclose client records, or any communications or information obtained from or pertaining to a present or prospective client, unless such disclosure is authorized by M.G.L. c. 112, § 135 through 135B, 258 CMR 22.00, or other applicable state and federal laws or regulations.

(2) It shall be a violation of 258 CMR 20.09 for any social worker to fail to inform a client, in accordance with the requirements of 258 CMR 22.06, about the limits on the confidentiality of client records and/or information obtained from that client in the course of that professional relationship, as set forth in M.G.L. c. 112, § 135 through 135B, 258 CMR 22.00, or other applicable state and federal laws or regulations.

20.10: Denial of Client Access to Records

A social worker shall not deny a client, or the authorized legal representative of such a client, access to any social work records pertaining to that client, except as provided in M.G.L. c. 112, § 135 through 135B, 258 CMR 22.00 or other applicable state or federal laws or regulations.

20.11: Other Improper Use of Client Information or Records

A social worker shall not use any information obtained from a client in the course of providing professional services to that client, including but not limited to the fact that he or she

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has a professional relationship with that client, for his or her own private or pecuniary gain without the informed written and voluntary consent of that client. 258 CMR 20.11 shall not prohibit a social worker from disclosing or making use of information about a client, to the extent authorized by M.G.L. c. 112, § 135A(d) and 258 CMR 22.04(7), in order to collect amounts owed by the client for professional services rendered.

20.12: Failure to Comply with Laws Governing Research Activities

A social worker shall not violate any applicable federal or state laws or regulations pertaining to informed consent, confidentiality of information, and treatment of research subjects, in connection with any research activity.

20.13: Failure to Disclose Fee Information

A social worker shall not fail or refuse to provide a client or prospective client with adequate and timely information about the fees which he or she charges for professional services rendered and the manner in which such fees may be paid, including adequate and timely information about the availability of insurance benefits and the date of exhaustion of any such coverage, if the client or prospective client requests such information.

20.14: Unlawful Advertising Practices

(1) A social worker shall not advertise for clients in a manner that is false, deceptive, or misleading.

(2) A licensed social worker shall not:

- (a) Fail or refuse to disclose his or her licensure level in any print, electronic or other advertising materials used to inform the public about his or her practice;
- (b) Perform any advertised function or service at a fee or cost which is higher than the fee or cost advertised, unless:
 - 1. the social worker cannot reasonably charge the advertised amount because of unforeseen circumstances,
 - 2. the social worker informs all parties directly involved of those unforeseen circumstances, and
 - 3. the social worker obtains the informed written consent of all parties directly involved prior to performing the function or service at the higher amount;
- (c) Otherwise fail to comply with all representations contained in any advertisement; or
- (d) Communicate any advertisement to the public by use of radio, television, motion pictures or other electronic media unless:
 - 1. such advertisement has been pre-recorded and approved for broadcasting or dissemination by the social worker, and
 - 2. a copy of such advertisement is retained by the social worker and made available to the Board upon request.

(3) A group social work practice shall not fail to disclose or provide the names and licensure levels of all social workers employed by or affiliated with the group practice, including

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supervisors and consultants.

20.15: Violations Shall Constitute Grounds for Disciplinary Action

Violation of any provision of 258 CMR 20.01 through 258 CMR 20.14 may constitute "malpractice" or "gross misconduct in the practice of the profession" within the meaning of M.G.L. c. 112, § 61, and shall constitute sufficient grounds for disciplinary action by the Board pursuant to 258 CMR 30.03(1).

REGULATORY AUTHORITY

258 CMR 20.00: M.G.L. c. 13, § 84.